

RECEIVED

DEC - 3 2003

Department of Water Resources

2003 DEC -2 PM 3: 42

DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
FILED

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA	)	SPECIAL MASTER'S REPORT AND
	)	RECOMMENDATION ON MOTION
Case No. 39576	)	TO SET ASIDE PARTIAL DECREE
	)	
	)	SUBCASE NOS.: 31-2246, 31-2258G, 31-
	)	2258H, 31-2281, 31-4128, 31-10392A, 31-
	)	10392B and 31-11284

On February 22, 2002, *Partial Decrees Pursuant to I.R.C.P. 54(b)* were issued for the above listed water rights. On November 7, 2003, the Court received a letter from Douglas M. Fransen indicating that there were problems with the water rights previously decreed by the SRBA court. Mr. Fransen did not identify any water right numbers. However, the SRBA clerk's office docketed the correspondence in the eight subcases listed above since these subcases were referred to on a map attached to the correspondence.

Presiding Judge John Melanson issued an *Order of Reference* on the request to set aside Partial Decrees. A hearing on the *Motion to Set Aside Partial Decrees* was held November 25, 2003. At the hearing, Mr. Fransen clarified that he did not intend to ask the court to set aside the partial decrees for the water rights listed above. Mr. Fransen explained that he is concerned with the legal descriptions of the water rights claimed by the Montevue Canal Company and identified as water right numbers 31-2235, 31-2263, 31-2268, 31-2273, 31-2279, 31-2284, 31-2294, 31-2295, 31-2323, 31-2348, 31-2359, 31-2382, 31-2460, and 31-10640. This Special Master set deadlines for Mr. Fransen and the Montevue Canal Company to file written motions to set aside those water rights and set a hearing date for January 14, 2004.

THEREFORE, IT IS RECOMMENDED that there be no changes to the *Partial Decrees* to the above referenced water rights issued February 22, 2002. No *Amended Partial Decrees* should issue. The Special Master requests an Order of Reference for water right numbers 31-2235, 31-2263, 31-2268, 31-2273, 31-2279, 31-2284, 31-2294, 31-2295, 31-2323, 31-2348, 31-2359, 31-2382, 31-2460, and 31-10640 in order to go forward with the motions to set aside that will be filed on the Montevue Canal Company rights.

Dated: December 2, 2003.



BRIGETTE BILYEU
Special Master
Snake River Basin Adjudication

CERTIFICATE OF MAILING

I certify that a true and correct copy of the SPECIAL MASTERS REPORT AND RECOMMENDATION ON MOTION TO SET ASIDE PARTIAL DECREE was mailed on December 02, 2003, with sufficient first-class postage to the following:

DOUGLAS M FRANSEN

Represented by:

RAY W. RIGBY

PO BOX 250

REXBURG, ID 83440-0250

Phone: 208-356-3633

DIRECTOR OF IDWR

PO BOX 83720

BOISE, ID 83720-0098

DOUGLAS M FRANSEN

856 E 2400 N

PO BOX 8

MONTEVIEW, ID 83435

Phone: 208-657-2239